



PATENT
Our Docket:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of) Group Art Unit: 2878
Ger van den Engh)
Serial No: 09/847,466) Examiner: S. Lee
Filed: May 1, 2001) Confirmation No. 7465
For: APPARATUS FOR DETERMINING)
RADIATION BEAM ALIGNMENT)

)

Commissioner for Patents
Washington, D.C. 20231

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DECLARATION PURSUANT TO 37 C.F.R. § 1.132

Sir:

I, Gerrit J. van den Engh, hereby declare as follows:

1. I am the Gerrit J. van den Engh who is named as a sole inventor on the above-identified patent application.

2. I am the Gerrit J. van den Engh who is named as a co-author with C. Asbury and J. Uy, on the reference entitled "Polarization of Scatter and Fluorescence Signals in Flow Cytometry" published as Asbury et al., *Cytometry* 40:88-101 (2000).

3. The invention claimed in the subject application was conceived solely by me and reduced to practice in my laboratory by me or persons acting under my direction and supervision.

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4. Some of the subject matter of the Asbury et al., *supra*, reference described at Figure 3 and page 94, is related to the subject matter described and claimed in the above-identified patent application. The one description of a pinhole mirror at Figure 3 and page 94 in Asbury et al. was conceived by me and reduced to practice in my laboratory by me or by persons acting under my direction and supervision. Therefore, the coauthors of the Asbury et al. reference did not contribute to aspects of the subject matter which are described and claimed in the above-identified application.

5. It is respectfully submitted that the named co-authors of the Asbury et al. publication, C. Asbury and J. Uy, did not contribute to the initial conception or any of the subsequent conceptual aspects of the subject matter which is described and claimed in the above-identified application. Therefore, C. Asbury and J. Uy were not named as co-inventors of the claimed invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may

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jeopardize the validity of the application or any patent issued thereon.

Date: May 10, 2003

By: Ger van den Engh
Gerrit J. van den Engh